

<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

mail, and open mail receptacles. He noted that he first became aware of his condition and realized its relation to his federal employment on February 2, 2019. Appellant did not stop work.

In support of his claim, appellant submitted progress notes dated November 5, 2018, and February 19, May 20, and September 18, 2019 from Dr. Joshua Brice, an osteopath Board-certified in internal medicine, which provided examination findings and diagnoses. In progress notes dated November 5, 2018, Dr. Brice diagnosed right shoulder pain of unspecified chronicity, and indicated that he suspected appellant's pain was secondary to overuse injury. He, in progress notes dated February 19, 2019, reported that appellant had experienced right shoulder pain for approximately five months, which had been aggravated by the overuse of his right arm during deliveries. Appellant related that years ago he had torn the muscle around the biceps region, which continued to bother him during work. Dr. Brice also noted that he suspected a rotator cuff tendinopathy. In progress notes dated May 20, 2019, he related that appellant had continued right shoulder pain. Dr. Brice related appellant's physical examination findings and noted that an x-ray of appellant's right shoulder was negative. He concluded that appellant performed repetitive motions at work, with no apparent injury. In September 18, 2019 progress notes, Dr. Brice noted appellant's ongoing right shoulder pain. He also indicated that appellant was scheduled to undergo surgery to correct a torn right rotator cuff.

Appellant also submitted a February 19, 2019 x-ray interpretation and a May 25, 2019 magnetic resonance imaging (MRI) scan. The February 19, 2019 x-ray interpretation reported an unremarkable right shoulder while the May 25, 2019 MRI scan reported a one centimeter full-thickness tear of the anterior supraspinatus tendon, moderate partial infraspinatus tendon tear, mild-to-moderate subscapularis tendinopathy, high-grade tear intra-articular biceps tendon, and moderate-to-advance acromioclavicular degenerative change.

In progress notes dated July 15, 2019, Dr. Patrick Demeo, a Board-certified orthopedic surgeon and orthopedic sports medicine physician, diagnosed right rotator cuff tear and recommended right arthroscopic surgery. He noted that appellant complained of right shoulder pain for two years with increased pain over the past six months and pain with overhead movements and repetitive motion at his employment. Dr. Demeo provided physical examination findings. He noted that review of appellant's right shoulder x-ray interpretations revealed no dislocations, fractures, or bony osseous lesions while a review of an MRI scan revealed right supraspinatus tendon tear and partial thickness subscapular tendon tear along with a biceps tendon tear.

In a development letter dated December 3, 2019, OWCP informed appellant that additional evidence was necessary to establish his claim. It advised him of the type of factual and medical evidence necessary and attached a questionnaire for his completion. OWCP also requested that appellant provide a narrative report from his treating physician, providing a firm diagnosis of a condition and a rationalized opinion explaining how his employment duties caused or aggravated a diagnosed medical condition. It afforded him 30 days to submit the necessary evidence.

OWCP also received a December 17, 2019 referral for right shoulder arthroscopy based on a diagnosis of right rotator cuff tear electronically signed by Joann Papp, a physician assistant.

In response to the December 3, 2019 development letter, OWCP received a position description for a rural carrier, and a December 9, 2019 letter from the employing establishment,

which verified appellant's duties as a rural carrier. Appellant submitted an undated statement responding to the questionnaire, wherein he described his daily employment duties.

By decision dated January 31, 2020, OWCP denied appellant's occupational disease claim, finding that the medical evidence of record was insufficient to establish causal relationship between his diagnosed right shoulder condition and the accepted factors of his federal employment.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>2</sup> has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA,<sup>3</sup> that an injury was sustained in the performance of duty, as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.<sup>4</sup> These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>5</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, an employee must submit the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.<sup>6</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>7</sup> A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment factors must be based on a

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<sup>2</sup> *Id.*

<sup>3</sup> See *F.M.*, Docket No. 20-0063 (issued November 24, 2020); *L.M.*, Docket No. 19-1981 (issued May 11, 2020); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>4</sup> *C.H.*, Docket No. 19-1781 (issued November 13, 2020); *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>5</sup> *C.H.*, *id.*; *J.S.*, Docket No. 19-1392 (issued February 13, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>6</sup> *L.C., Jr.*, Docket No. 20-0505 (issued November 24, 2020); *E.S.*, Docket 18-1580 (January 23, 2020); *R.G.*, Docket No. 19-0233 (issued July 16, 2019); see also *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>7</sup> *T.D.*, Docket No. 20-0921 (issued November 12, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

complete factual and medical background.<sup>8</sup> Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors.<sup>9</sup>

### **ANALYSIS**

The Board finds that appellant has not met his burden of proof to establish a right shoulder condition causally related to the accepted factors of his federal employment.

In support of his claim, appellant submitted progress notes from Dr. Brice dated November 5, 2018 and May 20, 2019 diagnosing right shoulder pain. The Board has consistently held that pain is a description of a symptom and not, in itself, considered a firm medical diagnosis.<sup>10</sup> As Dr. Brice failed to provide a specific diagnosis, his assessment of right shoulder pain in these progress notes was insufficient to establish appellant's claim.

In his February 19 and September 18, 2019 progress notes, Dr. Brice noted that appellant had a past history of torn right rotator cuff, and he related that he suspected a rotator cuff tendinopathy. The Board has related that a medical report lacking a firm diagnosis and a rationalized medical opinion regarding causal relationship is of no probative value.<sup>11</sup> Dr. Brice offered no rationalized opinion explaining how these conditions were causally related to the accepted factors of appellant's employment. The Board has held that medical evidence that does not offer an opinion explaining the cause of an employee's condition is of no probative value on the issue of causal relationship.<sup>12</sup> Therefore, these reports from Dr. Brice were also insufficient to establish appellant's claim.

Appellant also submitted a July 15, 2019 report from Dr. Demeo diagnosing a right rotator cuff tear. Dr. Demeo, generally noted appellant's employment duties, however, he did not offer an opinion explaining causal relationship. As previously noted, medical evidence that does not offer an opinion explaining the cause of an employee's condition is of no probative value on the issue of causal relationship.<sup>13</sup> Thus, this evidence was insufficient to establish appellant's claim.

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<sup>8</sup> *D.M.*, Docket No. 20-0981 (issued November 9, 2020); *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008).

<sup>9</sup> *C.U.*, Docket No. 20-0172 (issued November 3, 2020); *Victor J. Woodhams*, *supra* note 6.

<sup>10</sup> *See C.H.*, Docket No. 20-0228 (issued October 7, 2020); *T.G.*, Docket No. 19-0904 (issued November 25, 2019). Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.4(a)(6) (August 2012).

<sup>11</sup> *A.D.*, Docket No. 20-0679 (issued November 10, 2020); *J.P.*, Docket No. 20-0381 (issued July 28, 2020); *R.L.*, Docket No. 20-0284 (issued June 30, 2020).

<sup>12</sup> *K.G.*, Docket No. 20-0625 (issued November 6, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>13</sup> *Id.*

The record also contains a referral for right shoulder arthroscopy from a physician assistant. Certain healthcare providers such as physician assistants, nurse practitioners, physical therapists, and social workers are not considered “physician[s]” as defined under FECA.<sup>14</sup> Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.<sup>15</sup>

Finally, appellant also submitted a February 19, 2019 x-ray interpretation and a May 25, 2019 right shoulder MRI scan. However, the Board has held that reports of diagnostic tests, standing alone, lack probative value as they do not provide an opinion on causal relationship between accepted employment conditions and a given claimed period of disability.<sup>16</sup> Therefore, this evidence is also insufficient to establish appellant’s claim.

As there is no rationalized medical evidence of record explaining how/why appellant’s accepted factors of his federal employment caused or aggravated his right shoulder condition, the Board finds that he has not met his burden of proof.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant has not met his burden of proof to establish a right shoulder condition causally related to the accepted factors of his federal employment.

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<sup>14</sup> Section 8101(2) of FECA provides that physician “includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law.” 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t). *See supra* note 10 at Chapter 2.805.3(a)(1) (January 2013). *See also K.G., supra* note 12; *T.W.*, Docket No. 19-1412 (issued February 3, 2020); *K.W.*, 59 ECAB 271, 279 (2007); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA).

<sup>15</sup> *J.A.*, Docket No. 20-1375 (issued February 9, 2021); *C.G.*, Docket No. 20-0957 (issued January 27, 2021).

<sup>16</sup> *S.K.*, Docket No. 19-0272 (issued July 21, 2020); *A.V.*, Docket No. 19-1575 (issued June 11, 2020).

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 31, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 5, 2021  
Washington, DC

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board